

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA
CRIMINAL DIVISION
VENUE: SAN FRANCISCO

FILED
OCT 11 PM 12:30
RICHARD W. BUELL
UNITED STATES DISTRICT COURT
SAN FRANCISCO

UNITED STATES OF AMERICA,

v.
CR 07 0641 SI

DEFENDANT.

INDICTMENT

VIOLATION: 18 U.S.C. § 875(d) - Extortion; 18
U.S.C. § 1951(a) - Interference with Commerce by
Extortion; 47 U.S.C. § 223(a)(1)(C) -
Telecommunications Device Harassment

INDICT

A true bill.

James J. Vanden...
Foreman

Filed in open court this 11 day of

Betty Fong
Clerk

BETTY FONG

EDWARD M. CHEN

UNITED STATES MAGISTRATE JUDGE

No Bail Warrant Bail, \$

Em

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURTBY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT
☐ SUPERSEDING**OFFENSE CHARGED**

See attachment

- ☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony

PENALTY:

See attachment

PROCEEDINGName of Complainant Agency, or Person (& Title, if any)
Federal Bureau of Investigation

- ☐ person is awaiting trial in another Federal or State Court, give name of court

- ☐ this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

- ☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. Att'y ☐ Defense

- ☐ this prosecution relates to a pending case involving this same defendant

- ☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW
DOCKET NO.MAGISTRATE
CASE NO.Name and Office of Person
Furnishing Information on
THIS FORM**SCOTT N. SCHOOLS**☒ U.S. Att'y ☐ Other U.S. AgencyName of Asst. U.S. Att'y
(if assigned)**KYLE F. WALDINGER**Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA**DEFENDANT - U.S.****MINH DANG**

DISTRICT COURT NUMBER

CR**07****0641****SI****DEFENDANT****IS NOT IN CUSTODY**

- 1) ☒ Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges _____
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District) _____

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges

☐ Fed'l ☐ State

If answer to (6) is "Yes", show name of institution _____

Has detainer
been filed?

☐ Yes
☐ No

If "Yes"
give date
filed

**DATE OF
ARREST**

Month/Day/Year

Or... If Arresting Agency & Warrant were not

Month/Day/Year

**DATE TRANSFERRED
TO U.S. CUSTODY**☐ This report amends AO 257 previously submitted**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**☐ SUMMONS ☐ NO PROCESS*☒ WARRANT Bail Amount: _____

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments: _____

Attachment to Penalty Sheet
United States v. Minh Dang

Offenses Charged:

Count 1 — 18 U.S.C. § 875(d) — Extortion

Count 2 — 18 U.S.C. § 1951(a) — Interference w/Commerce by Extortion

Count 3 — 47 U.S.C. § 223(a)(1)(C) — Telecommunications Device Harassment

Penalties:

Count 1 — 2 years' imprisonment, \$250,000 fine, 1 year of supervised release, and \$100 special assessment

Count 2 — 20 years' imprisonment, \$250,000 fine, 3 years of supervised release, and \$100 special assessment

Count 3 — 2 years' imprisonment; \$250,000 fine, 1 year of supervised release, and \$100 special assessment

SCOTT N. SCHOOLS (SC 9990)
United States Attorney

FILED
07 OCT 11 PM 12:30
CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

MINH DANG,

Defendant.

CR No. 07

SI
0641

VIOLATIONS: 18 U.S.C. § 875(d) —
Extortion; 18 U.S.C. § 1951(a) —
Interference with Commerce by Extortion;
47 U.S.C. § 223(a)(1)(C) —
Telecommunications Device Harassment

SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

BACKGROUND

At all times relevant to this Indictment

1. Qualys Incorporated ("Qualys") was a privately held network security company of approximately 125 employees. Qualys was headquartered at 1600 Bridge Parkway, Redwood Shores (San Mateo County), California. Qualys also maintained other domestic and overseas sales offices, including an office in Cary, North Carolina.

2. As part of its business, Qualys provided on-demand computer vulnerability management and policy compliance solutions to its customers. This included assisting organizations to discover computer vulnerabilities, ensure regulatory compliance, and prioritize remediation according to business risk.

INDICTMENT

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1 3. Qualys did business throughout the United States and in several foreign
2 countries. Accordingly, Qualys was engaged in commercial activities in interstate and
3 foreign commerce and in an industry that affected interstate and foreign commerce.

4 4. The defendant Minh Dang was an individual who resided in the Northern
5 District of California.

6 DANG'S THEFT OF PERSONAL PROPERTY BELONGING TO
7 AN OFFICER OF QUALYS

8 5. On or about June 2, 2006, the defendant Minh Dang was working as a
9 mover for a moving company. On that date, Dang participated in moving the personal
10 belongings of an officer of Qualys from his residence in San Francisco, California to his
11 new residence in San Mateo County, California.

12 6. On or about the same day, the defendant Minh Dang stole a "camcorder"
13 belonging to the officer of Qualys from among the personal possessions of that
14 individual. The camcorder contained a video disc, which was also owned by the officer
15 of Qualys. The video disc depicted the officer of Qualys engaging in sexual activity with
16 another individual. The officer of Qualys had neither abandoned these items, nor did he
17 give permission to Dang or to anyone else to take possession of these items.

18 DANG'S COMMUNICATIONS WITH QUALYS EXECUTIVES

19 7. On or about June 19, 2006, from his residence in San Francisco, California,
20 the defendant Minh Dang created the Yahoo! e-mail account mphonsavong@yahoo.com.

21 8. As set out in more detail below, between about June 20, 2006 and about
22 August 15, 2006, the defendant Minh Dang sent numerous e-mail messages ("e-mails") to
23 one or more Qualys executives. All such e-mails were sent from Dang's residence in San
24 Francisco, California and all such e-mails were sent using the fictitious name "mike
25 phonsavong" from the e-mail address mphonsavong@yahoo.com.

26 9. On or about June 20, 2006, the defendant Minh Dang sent e-mails to
27 various Qualys executives, one of whom was located outside of the State of California.

28 ///

1 The e-mails contained the following text:

2 I have a homemade video of [an officer of Qualys] having
3 sexual intercourse with a young asian female that you might
4 be interested in. There is only one copy of this and I am
5 giving up all rights to this exclusive video to the highest
6 bidder. I intend to sell this video to anyone interested in
7 purchasing. If you feel that you may be interested in such a
8 video, then please write back.

9 10. On or about June 22, 2006, the defendant Minh Dang sent e-mails to
10 various Qualys executives, one of whom was located outside of the State of California.
11 Except for very small changes, these e-mails were identical in substance to the e-mails
12 sent on June 20, 2006.

13 11. On or about June 23, 2006, the defendant Minh Dang sent an e-mail to
14 Qualys's Vice President of Human Resources ("VP-HR"). The e-mail attached three
15 digital still shots from the video to which Dang had referred in his June 20 and June 22,
16 2006 e-mails and contained the following text:

17 This isn't a joke. I wouldn't waste my time nor would I
18 intend to waste yours or those that I have contacted that are
19 interested in this video. Attached to this e-mail are a few still
20 shots of the home video. As mentioned before, the highest
21 bidder will have all rights to this home video.

22 12. On or about June 24, 2006, the defendant Minh Dang sent e-mails to
23 various Qualys executives, one of whom was located outside of the State of California.
24 The e-mails attached the same (or similar) digital still shots that had been attached to the
25 June 23, 2006 e-mail. The e-mails contained the following text:

26 I have contacted several key people other than the [officer] of
27 Qualys about this video and they are also interested in this
28 video. As mentioned before, the highest bidder will have all
rights to this home video. Attached to this e-mail are a few
still shots with censors from the home video to prove that this
is not a joke.

13. On or about July 5, 2006, the defendant Minh Dang sent e-mails to the
accounts of various Qualys executives. The e-mails attached the same (or similar) digital
still shots that had been attached to the June 23 and June 24, 2006 e-mails. The e-mails
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1 contained the following text:

2 I have a homemade video of [an officer of Qualys] having
 3 sexual intercourse with a young Asian female that you might
 4 be interested in. There is only one copy of this and I am
 5 giving up all rights to this exclusive video to the highest
 6 bidder. I intend to sell this video to anyone interested in
 buying. If you feel that you may be interested in such a video,
 then please write back. . Attached to this e-mail are a few still
 shots with censors from the home video to prove that this is
 not a joke.

7 14. On or about July 5, 2006, the defendant Minh Dang sent two e-mails to the
 8 account of the officer of Qualys depicted in the video. Each message contained the same
 9 (or similar) digital still shots. The first e-mail contained the subject line "you having sex"
 10 and contained the text "you." The second e-mail contained the subject line "you having
 11 sex" and contained the text "?????"

12 15. On or about July 10, 2006, the defendant Minh Dang sent an e-mail to
 13 Qualys's VP-HR. The e-mail contained the following text:

14 To be honest with you, it may seem like an outrageous price
 15 but that's the offer received. As far as who's bidding on this,
 16 these bidders are CEO of network security system. I am
 17 unable to provide you the names of these companies. I really
 don't know what they want to do with the video, but I'm
 guessing they have ulterior motives.

18 16. On or about July 17, 2006, the defendant Minh Dang sent an e-mail to
 19 Qualys's VP-HR. The e-mail contained the following text:

20 . . . we have a problem here. Due to the fact that I keep
 21 postponing this, I have just lost one of my offers. He think
 22 I'm playing games by delaying week after week. I will take
 23 someone offer within the next several days. I will not lose
 24 any of my bids or have them lowered. The buyers are giving
 me a time frame now. If I keep postponing this, I will end up
 losing all my bids. I can not let that happen. . . . if you are
 serious like you said, than I will need an offer now!

25 Several people mentioned that they would like to use this
 26 video for embarrassment. That's the only reason why I keep
 27 delaying this. Like I mentioned in my previous emails, I will
 not take or be responsible for the actions of this video once
 it's sold.

28 17. On or about July 17, 2006, the defendant Minh Dang placed a telephone

1 call to Qualys's VP-HR and identified himself by the fictitious name "Mike Phonsavong."
2 Dang stated that he had sent an e-mail offering the video disc to the CEOs of numerous
3 companies that were competitors of Qualys. Dang stated that several companies that
4 were competitors of Qualys had offered him between \$5,000 and \$500,000 for the video
5 and that these bidders wanted to use the video to embarrass Qualys and the officer of
6 Qualys depicted in the video. Dang also stated that he was willing to sell the video to
7 Qualys.

8 18. On or about July 26, 2007, the defendant Minh Dang sent an e-mail to
9 Qualys's VP-HR. The e-mail contained, in part, the following text:

10 I am tired of playing games with you and everyone else. You
11 told me that you were going to give me a call last week but
12 never came around it. I still have the video. A buyer is
13 coming this Friday to pick it up. His offer was \$200k. A
14 publishing company has been informed about this video too.
15 They are very interested but haven't gotten full details about
16 the video. They don't know who the [officer] is or the
17 company. If the offer of \$200k doesn't come through by
18 Friday like planned, then I will go ahead and contact
19 them. . . .

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COUNT ONE: 18 U.S.C. § 875(d) — Extortion

19. The factual allegations in paragraphs 1 through 18 are re-alleged and incorporated herein as if set forth in full.

20. On or about June 24, 2006, in the Northern District of California and elsewhere, the defendant

MINH DANG

did knowingly transmit in interstate commerce a communication containing a threat to injure the reputation of Qualys and of the officer of Qualys, and did so with the intent to extort money and things of value from Qualys, in violation of Title 18, United States Code, Section 875(d).

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COUNT TWO: 18 U.S.C. § 1951(a) — Interference with Commerce by Extortion

21. The factual allegations in paragraphs 1 through 18 are re-alleged and incorporated herein as if set forth in full.

22. Continuously between on or about June 20, 2006 and August 15, 2006, in the Northern District of California and elsewhere, the defendant

MINH DANG

did knowingly and unlawfully obstruct and affect, and did attempt to obstruct and affect, commerce by extortion (as those terms are defined in Title 18, United States Code, Section 1951(b)), in that the defendant did attempt to obtain property of Qualys by virtue of Qualys's consent being induced by the wrongful use of actual and threatened fear, including fear of economic harm, in that the defendant sent numerous e-mails to Qualys executives and engaged in telephone communications with a Qualys executive threatening to sell the video disc depicting an officer of Qualys engaging in sexual activity with another individual to Qualys's competitors and others, which video disc had been stolen from the officer of Qualys, all in an effort to obtain money from Qualys in exchange for the video disc, in violation of Title 18, United States Code, Section 1951(a).

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INDICTMENT

COUNT THREE: 47 U.S.C. § 223(a)(1)(C) — Telecommunications Device Harassment

23. The facts alleged in paragraphs 1 through 18 are re-alleged and incorporated herein as if set forth in full.

24. On or about June 24, 2006, in the Northern District of California and elsewhere, the defendant

MINH DANG

did knowingly utilize a telecommunications device in interstate communications, without disclosing his identity, and did so with the intent to annoy, threaten, and harass the persons who received the communication, in that the defendant sent e-mails to various Qualys executives, one of whom was located outside of the State of California, and did so using the fictitious name "mike phonsavong" from the e-mail address mphonsavong@yahoo.com, after having sent similar e-mails to Qualys executives in the period since June 20, 2006, all in violation of Title 47, United States Code, Section 223(a)(1)(C).

DATED:

A TRUE BILL.


FOREPERSON

SCOTT N. SCHOOLS
United States Attorney


BRIAN J. STRETCH
Chief, Criminal Division

Approved as to Form:


AUSA WALDINGER